## REMARKS

Reconsideration of the application in view of the following remarks is respectfully requested.

Claims 11 and 15-21 are pending in the subject application. Claim 11 is independent and claims 15-21 depend, directly or indirectly, from claim 11. The present Reply does not include any amendments to the pending claims.

In the Office Action mailed April 23, 2009, claims 11 and 15-21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Srimanth et al. (Arzneim.-Forsch./Drug Res. 52, No. 5, 388-392, 2002) in view of Hirth (U.S. Patent No. 5,942,385). Srimanth et al. is cited as disclosing anti-cancer compounds. At page 2 of the Office Action, it is concluded: "Thus it would have been obvious to test the affect of known anti-cancer compounds [Srimanth et al.] on tumor cells of a patient in the in vitro VEGF tests described by Hirth et al." This sole rejection is respectfully traversed.

Claim 11 (and thus claims 15-21 which depend therefrom) of the subject application recites in part: "An *in vitro* method for assessing the ability of a compound to inhibit VEGF production in a cell from a tumor of a patient in need of treatment, comprising the steps of: (a) contacting said cell with said compound of the formula I ...; and (b) determining whether VEGF production is inhibited." Thus, step (b) of claim requires determining whether VEGF production is inhibited by the compound. Accordingly, all the pending claims require that the compound of formula I be assessed for the inhibition of VEGF production in a cell from a tumor of a patient in need of treatment.

A review of Srimanth et al. finds that the only description of the assay used to test for biological activity is the short section entitled "2.2 Pharmacology" at page 392. The results are stated therein to represent "the drug concentration (mol/l) producing 50% inhibition of cell growth." There is no teaching or suggestion that the compounds tested by Srimanth et al. inhibit VEGF production. To attempt to rectify the deficiency in Srimanth et al., the reference is combined with Hirth. There a number of reasons why this combination is not proper under Section 103(a).

First, the in vitro VEGF tests of Hirth are only to detect the presence of VEGF (as VEGF gene expression or VEGF proteins) in an isolated cell. As described above, Applicants' pending claims require that the compounds be assessed for the ability of a compound to inhibit VEGF production. The tests of Hirth are not inhibition assays and are not intended or set up to yield data regarding a compound's inhibition potency (e.g., $IC_{50}$). Thus, it would not have been obvious to test the affect of the compounds of Srimanth et al. on tumor cells of a patient in the in vitro VEGF tests described by Hirth.

Second, Hirth is directed to methods of assessing the molecular stage of a disease characterized by abnormal angiogenesis, and tumor angiogenesis in particular. There is no teaching or suggestion in Srimanth et al. that their compounds are anti-angiogenesis drugs.

As noted above, the assay in Srimanth et al. was for inhibition of cell growth. There are thousands of journal articles that report the testing of compounds *in vitro* for ability to inhibit tumor cell growth. In the absence of knowledge of the disclosure of the subject application, why would one of skill in the art select the compounds of this one reference (Srimanth et al.) in order to assess for the ability to inhibit VEGF production? Applicants submit that, given there is no teaching or suggestion in Srimanth et al. that the compounds disclosed therein inhibit VEGF production, it is only when one of skill in the art is in possession of the teachings of the subject application that there is motivation to assess the compounds of Srimanth et al. for the ability to inhibit VEGF production. It would not have been obvious, within the meaning of Section 103(a), to one of skill in the art to test the compounds of Srimanth et al. for the ability to inhibit VEGF production. Applicants respectfully submit that the Patent Office has failed to establish a *prima facie* case for obviousness under Section 103(a).

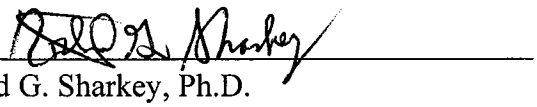
Therefore, Applicants believe that the rejection of claims 11 and 15-21 under 35 U.S.C. § 103(a) over Srimanth et al. in view of Hirth has been overcome. Reconsideration and withdrawal of this rejection are respectfully requested.

Therefore, in light of the remarks set forth above, Applicants believe that the Examiner's sole rejection has been overcome. Reconsideration and allowance of the pending claims (11 and 15-21) are respectfully requested. If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned attorney (at 206-622-4900) to resolve the matter.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to Deposit Account No. **031182**.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC



Richard G. Sharkey, Ph.D.
Registration No. 32,629

701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Phone: (206) 622-4900
Fax: (206) 682-6031

MillicentS/1401233